

By: Ellis

S.B. No. 1512

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of certain crime scene photographs and video recordings; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 56, Code of Criminal Procedure, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. CONFIDENTIALITY OF CRIME SCENE PHOTOGRAPHS AND RECORDINGS

Art. 56.151. DEFINITIONS. In this subchapter:

(1) "Deceased person's next of kin" means:

(A) the surviving spouse of the deceased person;

(B) if there is no surviving spouse of the deceased, an adult child of the deceased person; or

(C) if there is no surviving spouse or adult child of the deceased, a parent of the deceased person.

(2) "Local governmental entity" means a county, municipality, school district, charter school, junior college district, or other political subdivision of this state.

(3) "News media" means:

(A) a radio or television station that holds a license issued by the Federal Communications Commission;

(B) a newspaper that is qualified under Section 2051.044, Government Code, to publish legal notices or is a free newspaper of general circulation and that is published at least

1 once a week and available and of interest to the general public in
2 connection with the dissemination of news; or

3 (C) a magazine that appears at a regular
4 interval, that contains stories, articles, and essays by various
5 writers, and that is of interest to the general public in connection
6 with the dissemination of news or public affairs.

7 (4) "Public or private institution of higher
8 education" means:

9 (A) an institution of higher education, as
10 defined by Section 61.003, Education Code; or

11 (B) a private or independent institution of
12 higher education, as defined by Section 61.003, Education Code.

13 (5) "Sensitive crime scene image" means a photograph
14 or video recording that depicts a deceased person in a state of
15 dismemberment, decapitation, or similar mutilation or that depicts
16 the deceased person's genitalia.

17 (6) "State agency" means a department, commission,
18 board, office, or other agency that is a part of state government
19 and that is created by the constitution or a statute of this state.
20 The term includes an institution of higher education as defined by
21 Section 61.003, Education Code.

22 Art. 56.152. APPLICABILITY. (a) This subchapter applies
23 to:

24 (1) a state agency; and

25 (2) a local governmental entity.

26 (b) This subchapter applies to any sensitive crime scene
27 image regardless of the date that the image was taken or recorded.

1 Art. 56.153. CONFIDENTIALITY OF SENSITIVE CRIME SCENE
2 IMAGES. (a) A sensitive crime scene image in the custody of a
3 person to whom this subchapter applies is confidential and not
4 subject to disclosure under Chapter 552, Government Code.

5 (b) The custodian of a sensitive crime scene image may not
6 permit a person to view or copy the image except as provided by this
7 subchapter.

8 Art. 56.154. RIGHT TO VIEW AND COPY SENSITIVE CRIME SCENE
9 IMAGES. (a) The following persons are entitled to view a sensitive
10 crime scene image of a deceased person:

11 (1) the deceased person's next of kin;

12 (2) a person authorized in writing by the deceased
13 person's next of kin;

14 (3) a defendant being prosecuted for the death of the
15 deceased person or the defendant's attorney or a person convicted
16 of an offense in relation to that death and appealing that
17 conviction or that person's attorney;

18 (4) a bona fide member of the news media who is
19 engaging in a news-gathering activity; and

20 (5) a person performing bona fide research sponsored
21 by a public or private institution of higher education with
22 approval of a supervisor of the research or supervising faculty
23 member.

24 (b) The following persons are entitled to make a copy of a
25 sensitive crime scene image of a deceased person:

26 (1) the deceased person's next of kin;

27 (2) a person authorized in writing by the deceased

1 person's next of kin;

2 (3) a defendant being prosecuted for the death of the
3 deceased person or the defendant's attorney or a person convicted
4 of an offense in relation to that death and appealing that
5 conviction or that person's attorney;

6 (4) a bona fide member of the news media who is
7 engaging in a news-gathering activity, but only in accordance with
8 a court order under Article 56.105; and

9 (5) a person performing bona fide research sponsored
10 by a public or private institution of higher education with
11 approval of a supervisor of the research or supervising faculty
12 member, but only in accordance with a court order under Article
13 56.105.

14 (c) Before releasing a sensitive crime scene image, the
15 custodian of the image shall notify the deceased person's next of
16 kin of the request for the image. The custodian may not release the
17 image before the 14th day after the date the custodian provides the
18 notice.

19 Art. 56.155. COURT ORDER TO AUTHORIZE COPYING OF SENSITIVE
20 CRIME SCENE IMAGES. (a) A person described by Article 56.154(b)(4)
21 or (5) may petition a district court in the county in which the
22 death occurred for permission to copy a sensitive crime scene image
23 of the deceased person.

24 (b) The district court, on a showing of good cause, may:

25 (1) issue the order authorizing the person to copy the
26 sensitive crime scene image; and

27 (2) prescribe any restriction or stipulation relating

1 to the copying or to the use of the copy the court considers
2 necessary or appropriate.

3 (c) A person requesting permission to copy a sensitive crime
4 scene image shall serve a copy of the petition on the deceased
5 person's next of kin not later than the 14th day before the date of a
6 court hearing on the matter.

7 (d) In determining good cause, the court shall:

8 (1) conduct an in camera review of each sensitive
9 crime scene image in question; and

10 (2) consider:

11 (A) whether disclosure of the sensitive crime
12 scene image is necessary for the public evaluation of governmental
13 performance;

14 (B) the seriousness of the intrusion into the
15 right to privacy of the deceased person's family;

16 (C) whether the disclosure is the least intrusive
17 means available; and

18 (D) the availability of similar information in
19 other public records, regardless of form.

20 (e) The copying of a sensitive crime scene image under this
21 subchapter must be under the direct supervision of the custodian of
22 the sensitive crime scene image or a person designated by the
23 custodian.

24 Art. 56.156. APPEAL FROM COURT ORDER. The granting or
25 denial of an order under Article 56.155 may be appealed in the
26 manner provided for other civil proceedings.

27 Art. 56.157. PENALTIES. (a) A person commits an offense if

1 the person:

2 (1) knowingly violates Article 56.153(b); or

3 (2) knowingly violates a court order issued under

4 Article 56.155.

5 (b) An offense under this article is a Class C misdemeanor.

6 SECTION 2. (a) The change in law made by this Act applies
7 only to the disclosure or copying of a crime scene photograph or
8 recording on or after September 1, 2013.

9 (b) The disclosure or copying of a crime scene photograph or
10 recording before September 1, 2013, is covered by the law in effect
11 when the photograph or recording was disclosed or copied, and the
12 former law is continued in effect for that purpose.

13 SECTION 3. This Act takes effect September 1, 2013.